

By: Coleman

H.B. No. 4140

A BILL TO BE ENTITLED

AN ACT

relating to issues affecting counties and certain other governmental entities and residents.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 264, Health and Safety Code, is amended by adding Section 264.004 to read as follows:

Sec. 264.004. DISSOLUTION. (a) The commissioners court of a county by order may dissolve an authority created by the commissioners court if the commissioners court and the authority provide for the sale or transfer of the authority's assets and liabilities to the county.

(b) The dissolution of an authority and the sale or transfer of the authority's assets and liabilities may not:

(1) violate a trust indenture or bond resolution relating to the outstanding bonds of the authority; or

(2) diminish or impair the rights of the holders of outstanding bonds, warrants, or other obligations of the authority.

(c) An order dissolving an authority takes effect on the 31st day after the date the commissioners court adopts the order.

(d) All records of the authority remaining when the authority is dissolved shall be transferred to the county clerk of the county in which the authority is located.

SECTION 2. Subtitle D, Title 4, Health and Safety Code, is amended by adding Chapter 291A to read as follows:

1 CHAPTER 291A. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM IN
2 CERTAIN COUNTIES BORDERING OR INCLUDING THE SAM RAYBURN RESERVOIR

3 SUBCHAPTER A. GENERAL PROVISIONS

4 Sec. 291A.001. DEFINITIONS. In this chapter:

5 (1) "Institutional health care provider" means a
6 nonpublic hospital that provides inpatient hospital services.

7 (2) "Paying hospital" means an institutional health
8 care provider required to make a mandatory payment under this
9 chapter.

10 (3) "Program" means the county health care provider
11 participation program authorized by this chapter.

12 Sec. 291A.002. APPLICABILITY. This chapter applies only to
13 a county that:

14 (1) is not served by a hospital district or a public
15 hospital;

16 (2) has a population of more than 75,000; and

17 (3) borders or includes a portion of the Sam Rayburn
18 Reservoir.

19 Sec. 291A.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION
20 PROGRAM; PARTICIPATION IN PROGRAM. (a) A county health care
21 provider participation program authorizes a county to collect a
22 mandatory payment from each institutional health care provider
23 located in the county to be deposited in a local provider
24 participation fund established by the county. Money in the fund may
25 be used by the county to fund certain intergovernmental transfers
26 and indigent care programs as provided by this chapter.

27 (b) The commissioners court of a county may adopt an order

1 authorizing a county to participate in the program, subject to the
2 limitations provided by this chapter.

3 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

4 Sec. 291A.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY
5 PAYMENT. The commissioners court of a county may require a
6 mandatory payment authorized under this chapter by an institutional
7 health care provider in the county only in the manner provided by
8 this chapter.

9 Sec. 291A.052. MAJORITY VOTE REQUIRED. The commissioners
10 court of a county may not authorize the county to collect a
11 mandatory payment authorized under this chapter without an
12 affirmative vote of a majority of the members of the commissioners
13 court.

14 Sec. 291A.053. RULES AND PROCEDURES. After the
15 commissioners court of a county has voted to require a mandatory
16 payment authorized under this chapter, the commissioners court may
17 adopt rules relating to the administration of the mandatory
18 payment.

19 Sec. 291A.054. INSTITUTIONAL HEALTH CARE PROVIDER
20 REPORTING; INSPECTION OF RECORDS. (a) The commissioners court of a
21 county that collects a mandatory payment authorized under this
22 chapter shall require each institutional health care provider to
23 submit to the county a copy of any financial and utilization data
24 required by and reported to the Department of State Health Services
25 under Sections 311.032 and 311.033 and any rules adopted by the
26 executive commissioner of the Health and Human Services Commission
27 to implement those sections.

1 (b) The commissioners court of a county that collects a
2 mandatory payment authorized under this chapter may inspect the
3 records of an institutional health care provider to the extent
4 necessary to ensure compliance with the requirements of Subsection
5 (a).

6 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

7 Sec. 291A.101. HEARING. (a) Each year, the commissioners
8 court of a county that collects a mandatory payment authorized
9 under this chapter shall hold a public hearing on the amounts of any
10 mandatory payments that the commissioners court intends to require
11 during the year and how the revenue derived from those payments is
12 to be spent.

13 (b) Not later than the 10th day before the date of the
14 hearing required under Subsection (a), the commissioners court of
15 the county shall publish notice of the hearing in a newspaper of
16 general circulation in the county.

17 (c) A representative of a paying hospital is entitled to
18 appear at the time and place designated in the public notice and to
19 be heard regarding any matter related to the mandatory payments
20 authorized under this chapter.

21 Sec. 291A.102. DEPOSITORY. (a) The commissioners court of
22 each county that collects a mandatory payment authorized under this
23 chapter by resolution shall designate one or more banks located in
24 the county as the depository for mandatory payments received by the
25 county. A bank designated as a depository serves for two years or
26 until a successor is designated.

27 (b) All income received by a county under this chapter,

1 including the revenue from mandatory payments remaining after
2 discounts and fees for assessing and collecting the payments are
3 deducted, shall be deposited with the county depository in the
4 county's local provider participation fund and may be withdrawn
5 only as provided by this chapter.

6 (c) All funds under this chapter shall be secured in the
7 manner provided for securing county funds.

8 Sec. 291A.103. LOCAL PROVIDER PARTICIPATION FUND;
9 AUTHORIZED USES OF MONEY. (a) Each county that collects a mandatory
10 payment authorized under this chapter shall create a local provider
11 participation fund.

12 (b) The local provider participation fund of a county
13 consists of:

14 (1) all revenue received by the county attributable to
15 mandatory payments authorized under this chapter, including any
16 penalties and interest attributable to delinquent payments;

17 (2) money received from the Health and Human Services
18 Commission as a refund of an intergovernmental transfer from the
19 county to the state for the purpose of providing the nonfederal
20 share of Medicaid supplemental payment program payments, provided
21 that the intergovernmental transfer does not receive a federal
22 matching payment; and

23 (3) the earnings of the fund.

24 (c) Money deposited to the local provider participation
25 fund may be used only to:

26 (1) fund intergovernmental transfers from the county
27 to the state to provide the nonfederal share of a Medicaid

1 supplemental payment program authorized under the state Medicaid
2 plan, including through the Medicaid managed care program, under
3 the Texas Healthcare Transformation and Quality Improvement
4 Program waiver issued under Section 1115 of the federal Social
5 Security Act (42 U.S.C. Section 1315), or under a successor waiver
6 program authorizing similar Medicaid supplemental payment
7 programs;

8 (2) subsidize indigent programs;

9 (3) pay the administrative expenses of the county
10 solely for activities under this chapter;

11 (4) refund a portion of a mandatory payment collected
12 in error from a paying hospital; and

13 (5) refund to paying hospitals the proportionate share
14 of money received by the county from the Health and Human Services
15 Commission that is not used to fund the nonfederal share of Medicaid
16 supplemental payment program payments.

17 (d) Money in the local provider participation fund may not
18 be commingled with other county funds.

19 (e) An intergovernmental transfer of funds described by
20 Subsection (c)(1) and any funds received by the county as a result
21 of an intergovernmental transfer described by that subsection may
22 not be used by the county or any other entity to expand Medicaid
23 eligibility under the Patient Protection and Affordable Care Act
24 (Pub. L. No. 111-148) as amended by the Health Care and Education
25 Reconciliation Act of 2010 (Pub. L. No. 111-152).

26 SUBCHAPTER D. MANDATORY PAYMENTS

27 Sec. 291A.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL

1 NET PATIENT REVENUE. (a) Except as provided by Subsection (e), the
2 commissioners court of a county that collects a mandatory payment
3 authorized under this chapter may require an annual mandatory
4 payment to be assessed on the net patient revenue of each
5 institutional health care provider located in the county. The
6 commissioners court may provide for the mandatory payment to be
7 assessed quarterly. In the first year in which the mandatory
8 payment is required, the mandatory payment is assessed on the net
9 patient revenue of an institutional health care provider as
10 determined by the data reported to the Department of State Health
11 Services under Sections [311.032](#) and [311.033](#) in the fiscal year
12 ending in 2015 or, if the institutional health care provider did not
13 report any data under those sections in that fiscal year, as
14 determined by the institutional health care provider's Medicare
15 cost report submitted for the 2015 fiscal year or for the closest
16 subsequent fiscal year for which the provider submitted the
17 Medicare cost report. The county shall update the amount of the
18 mandatory payment on an annual basis.

19 (b) The amount of a mandatory payment authorized under this
20 chapter must be uniformly proportionate with the amount of net
21 patient revenue generated by each paying hospital in the county. A
22 mandatory payment authorized under this chapter may not hold
23 harmless any institutional health care provider, as required under
24 42 U.S.C. Section 1396b(w).

25 (c) The commissioners court of a county that collects a
26 mandatory payment authorized under this chapter shall set the
27 amount of the mandatory payment. The amount of the mandatory

1 payment required of each paying hospital may not exceed an amount
2 that, when added to the amount of the mandatory payments required
3 from all other paying hospitals in the county, equals an amount of
4 revenue that exceeds six percent of the aggregate net patient
5 revenue of all paying hospitals in the county.

6 (d) Subject to the maximum amount prescribed by Subsection
7 (c), the commissioners court of a county that collects a mandatory
8 payment authorized under this chapter shall set the mandatory
9 payments in amounts that in the aggregate will generate sufficient
10 revenue to cover the administrative expenses of the county for
11 activities under this chapter, to fund the nonfederal share of a
12 Medicaid supplemental payment program as described by Section
13 291A.103(c)(1), and to pay for indigent programs, except that the
14 amount of revenue from mandatory payments used for administrative
15 expenses of the county for activities under this chapter in a year
16 may not exceed the lesser of four percent of the total revenue
17 generated from the mandatory payment or \$20,000.

18 (e) A paying hospital may not add a mandatory payment
19 required under this section as a surcharge to a patient.

20 Sec. 291A.152. ASSESSMENT AND COLLECTION OF MANDATORY
21 PAYMENTS. The county may collect or contract for the assessment and
22 collection of mandatory payments authorized under this chapter.

23 Sec. 291A.153. INTEREST, PENALTIES, AND DISCOUNTS.
24 Interest, penalties, and discounts on mandatory payments required
25 under this chapter are governed by the law applicable to county ad
26 valorem taxes.

27 Sec. 291A.154. PURPOSE; CORRECTION OF INVALID PROVISION OR

1 PROCEDURE. (a) The purpose of this chapter is to generate revenue by
2 collecting from institutional health care providers a mandatory
3 payment to be used to provide the nonfederal share of a Medicaid
4 supplemental payment program.

5 (b) To the extent any provision or procedure under this
6 chapter causes a mandatory payment authorized under this chapter to
7 be ineligible for federal matching funds, the county may provide by
8 rule for an alternative provision or procedure that conforms to the
9 requirements of the federal Centers for Medicare and Medicaid
10 Services.

11 SECTION 3. Subchapter C, Chapter 775, Health and Safety
12 Code, is amended by adding Section 775.0341 to read as follows:

13 Sec. 775.0341. APPOINTMENT OF BOARD IN CERTAIN DISTRICTS
14 LOCATED IN MORE THAN ONE COUNTY. (a) This section applies only to a
15 district that was authorized to have a board of emergency services
16 commissioners appointed under former Section 776.0345 and that is
17 located:

18 (1) partly in a county with a population of less than
19 22,000; and

20 (2) partly in a county with a population of more than
21 54,000.

22 (b) A five-member board of emergency services commissioners
23 appointed under this section serves as the district's governing
24 body. A commissioner serves a two-year term.

25 (c) The commissioners court of the smallest county in which
26 the district is located shall appoint two commissioners to the
27 board. The commissioners court of the largest county in which the

1 district is located shall appoint three commissioners to the board.

2 (d) To be eligible for appointment as an emergency services
3 commissioner under this section, a person must be at least 18 years
4 of age and reside in the district. Two commissioners must reside in
5 the smallest county in which the district is located, and three
6 commissioners must reside in the largest county in which the
7 district is located.

8 (e) On January 1 of each year, a commissioners court shall
9 appoint a successor for each emergency services commissioner
10 appointed by that commissioners court whose term has expired.

11 (f) The appropriate commissioners court shall fill a
12 vacancy on the board for the remainder of the unexpired term.

13 SECTION 4. Section [775.035](#), Health and Safety Code, is
14 amended by adding Subsection (j) to read as follows:

15 (j) This section does not apply to a district described by
16 Section [775.0341](#).

17 SECTION 5. Section [775.036](#), Health and Safety Code, is
18 amended by adding Subsection (a-1) to read as follows:

19 (a-1) Notwithstanding Subsection (a)(1), the board for a
20 district located wholly in a county with a population of 75,000 or
21 less may by resolution determine to hold the board's regular
22 meetings less frequently than prescribed by that subsection. The
23 resolution must require the board to meet either quarterly or every
24 other month. The board shall meet as required by the resolution.

25 SECTION 6. Subchapter [2](#), Chapter [271](#), Local Government
26 Code, is amended by adding Section 271.909 to read as follows:

27 Sec. 271.909. PURCHASES: DEVICES THAT UTILIZE ELECTRONIC

1 CAPTURE. As it relates to purchases by local governmental entities
2 and notwithstanding any provision under Texas law, devices that
3 utilize electronic capture to produce a physical record shall be
4 considered interchangeable with devices that utilize electronic
5 capture to produce an electronic record.

6 SECTION 7. Section 81.001(b), Local Government Code, is
7 amended to read as follows:

8 (b) If present, the county judge is the presiding officer of
9 the commissioners court. This subsection does not apply to a
10 meeting held under Section 551.127, Government Code, if the county
11 judge is not located at the physical space made available to the
12 public for the meeting.

13 SECTION 8. (a) All governmental acts and proceedings of an
14 emergency services district to which former Section 776.0345,
15 Health and Safety Code, applied before that section was repealed
16 and that relate to the selection of emergency services
17 commissioners of the district and that were taken between January
18 1, 2012, and the effective date of this Act are validated, ratified,
19 and confirmed in all respects as if they had been taken as
20 authorized by law.

21 (b) This section does not apply to any matter that on the
22 effective date of this Act:

23 (1) is involved in litigation if the litigation
24 ultimately results in the matter being held invalid by a final court
25 judgment; or

26 (2) has been held invalid by a final court judgment.

27 SECTION 9. Section 250.006(b), Local Government Code, is

1 repealed.

2 SECTION 10. If before implementing any provision of Chapter
3 291A, Health and Safety Code, as added by this Act, a state agency
4 determines that a waiver or authorization from a federal agency is
5 necessary for implementation of that provision, the agency affected
6 by the provision shall request the waiver or authorization and may
7 delay implementing that provision until the waiver or authorization
8 is granted.

9 SECTION 11. This Act takes effect immediately if it
10 receives a vote of two-thirds of all the members elected to each
11 house, as provided by Section 39, Article III, Texas Constitution.
12 If this Act does not receive the vote necessary for immediate
13 effect, this Act takes effect September 1, 2021.